

107TH CONGRESS
1ST SESSION

H. R. 608

To amend section 211 of the Clean Air Act to prohibit the use of MTBE, to provide flexibility within the oxygenate requirement of the Environmental Protection Agency's Reformulated Gasoline Program, to promote the use of renewable ethanol, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2001

Mr. GANSKE (for himself, Mr. SHIMKUS, Mr. EVANS, Mr. LATHAM, Mr. WELLER, Mr. BLAGOJEVICH, Mr. LEACH, Mr. COSTELLO, Mr. PHELPS, Mr. RAMSTAD, Mr. UPTON, Ms. KAPTUR, Mr. LAHOOD, Mr. BOSWELL, Mr. MANZULLO, Mr. TERRY, Mr. ENGLISH, Mr. JOHNSON of Illinois, Mrs. THURMAN, Mr. RYUN of Kansas, Mr. BEREUTER, Mr. SOUDER, Mr. SIMPSON, Mr. GRAVES, Mr. OSBORNE, Mr. WHITFIELD, and Mrs. EMERSON) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend section 211 of the Clean Air Act to prohibit the use of MTBE, to provide flexibility within the oxygenate requirement of the Environmental Protection Agency's Reformulated Gasoline Program, to promote the use of renewable ethanol, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited at the “Clean Air and Water
3 Preservation Act of 2001”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds that:

6 (1) The oxygenate requirement of the reformu-
7 lated gasoline (“RFG”) program has proven effec-
8 tive in reducing emissions of exhaust hydrocarbons,
9 nitrous oxide and carbon monoxide, known precur-
10 sors to smog.

11 (2) One oxygenate chosen by gasoline refiners
12 to comply with the Clean Air Act regulations, methyl
13 tertiary butyl ether (“MTBE”), has been discovered
14 in water sources throughout the nation.

15 (3) MTBE renders water undrinkable and is
16 considered a probable carcinogen by the Environ-
17 mental Protection Agency.

18 (4) MTBE is highly soluble in water and slow
19 to degrade. Only one gallon of MTBE is required to
20 contaminate 26 million gallons of water.

21 (5) An alternative oxygenate, ethanol, is a
22 biobased product which produces the same reduc-
23 tions in emissions, is not as soluble in water, bio-
24 degrades rapidly, and is considered safe for the envi-
25 ronment.

1 (6) The oxygenate requirement of the RFG pro-
2 gram requires 2 percent by weight of an oxygenate
3 be added to gasoline. Ethanol contains approxi-
4 mately twice as much as oxygen as MTBE, therefore
5 supplying the RFG program with sufficient ethanol
6 to replace MTBE would require half the volume of
7 MTBE currently used.

8 (7) The ethanol industry is expanding rapidly.
9 Production capacity in 1998 was estimated at 1.8
10 billion gallons. New production facilities that came
11 on line in 1999 has greatly increased this capacity.

12 (8) The Department of Agriculture projects the
13 domestic ethanol industry will be able to produce the
14 approximately 3.1 billion gallons of ethanol nec-
15 essary to replace MTBE by 2004.

16 (9) The U.S. Department of Agriculture esti-
17 mates that replacing MTBE with ethanol will (A) in-
18 crease the demand for corn for ethanol by more than
19 500 million bushels each year, improving the price of
20 corn by 14 cents per bushel each year and increasing
21 average total farm cash receipts by \$1 billion each
22 year; (B) create 13,000 new jobs; and (C) increase
23 average US agricultural net export value by more
24 than \$200 million and reduce US import value of

1 MTBE by \$1.1 billion for an improved US trade
2 balance of \$1.3 billion each year.

3 (10) Ethanol is an energy efficient fuel. A 1995
4 report by the USDA estimated one gallon of ethanol
5 provides 25 percent more energy than production re-
6 quires. Other studies show the net energy gain po-
7 tential of ethanol could exceed 150 percent when
8 state-of-the-art agricultural and production tech-
9 nologies are used.

10 (11) Ethanol is proven to enhance the perform-
11 ance of automobiles. Currently, all vehicle manufac-
12 turers approve the use of 10 percent ethanol blended
13 fuels.

14 (12) Replacing MTBE with ethanol would
15 maintain the emissions reductions obtained through
16 the RFG program without the water contamination
17 problems associated with MTBE.

18 (13) When implementing the Clean Air Act
19 Amendments of 1990, the Environmental Protection
20 Agency required, by regulation, that each gallon of
21 gasoline sold in the RFG program contain a min-
22 imum of 1.5 percent by weight of oxygenate. This
23 was not the intent of Congress in passing the oxy-
24 genate requirement and prohibits the most efficient
25 use of oxygenates. Lifting this regulatory require-

1 ment will provide refiners more flexibility for com-
2 plying with the RFG program and provide high per-
3 formance gasoline year-round.

4 (14) Providing such flexibility in the use of
5 oxygenates could lead to an increase in the use of
6 aromatics, many of which are known carcinogens.
7 Therefore, a limit on the amount of aromatics added
8 to gasoline is necessary to protect public health.

9 (15) Providing such flexibility in the use of
10 oxygenates could lead to an increase in emissions.
11 Therefore, a prohibition against an increase in emis-
12 sions above the level achieved by RFG gasoline is
13 necessary to protect air quality.

14 **SEC. 3. USE OF MTBE AS A FUEL ADDITIVE.**

15 (a) MTBE BAN.—Section 211(c) of the Clean Air
16 Act (42 U.S.C. 7545(c)) is amended by adding at the end
17 of paragraph (1) the following: “The regulations under
18 this paragraph shall prohibit the use of methyl tertiary
19 butyl ether (MTBE) as a fuel additive.”.

20 (b) REGULATIONS.—The Administrator of the Envi-
21 ronmental Protection Agency shall amend the regulations
22 under section 211(c)(1) of the Clean Air Act as promptly
23 as practicable after the date of enactment of this Act to
24 conform to the amendment made by subsection (a) of this
25 section.

1 (c) EFFECTIVE DATE.—Subsection (a) of this section
2 shall take effect upon the expiration of the three-year pe-
3 riod beginning on the date of the enactment of this Act.

4 (d) LABELING.—During the period beginning on the
5 date of enactment of this Act and ending three years from
6 the date of enactment, the Administrator of the Environ-
7 mental Protection Agency shall require any person selling
8 gasoline that contains methyl tertiary butyl ether at retail
9 to prominently label the fuel dispensing system for the
10 gasoline with a notice that the gasoline contains methyl
11 tertiary butyl ether (‘MTBE’).

12 **SEC. 4. EXISTING MTBE WATER CONTAMINATION.**

13 (a) STATE SOURCE WATER ASSESSMENT PRO-
14 GRAMS.—Section 1453(a) of the Safe Drinking Water Act
15 is amended by adding the following at the end thereof:

16 “(8) MTBE CONTAMINATION.—The Adminis-
17 trator shall amend the guidelines under this sub-
18 section to require that State source water assess-
19 ment programs be revised to prioritize groundwater
20 areas and aquifers that have been contaminated, or
21 are most vulnerable to contamination, by methyl ter-
22 tiary butyl ether (‘MTBE’). Each such revision shall
23 be submitted and approved or disapproved by the
24 Administrator in accordance with the same deadlines

1 as applicable to the original program under para-
 2 graph (3).”.

3 (b) EPA CLEANUP GUIDELINES.—Section 1442 of
 4 the Safe Drinking Water Act is amended by adding the
 5 following at the end thereof:

6 “(f) CLEANUP GUIDELINES FOR MTBE.—The Ad-
 7 ministrator shall develop a clear set of technical guidelines
 8 to assist States in the investigation and cleanup of methyl
 9 tertiary butyl ether (‘MTBE’) in groundwater.”.

10 **SEC. 5. ALLOWING FOR OXYGEN AVERAGING WITHIN THE**
 11 **RFG PROGRAM.**

12 (a) AMENDMENT OF CLEAN AIR ACT.—Subpara-
 13 graph (B) of section 211(k)(2) of the Clean Air Act and
 14 clause (v) of subparagraph (A) of section 211(k)(3) of
 15 such Act are each amended by inserting “an average of”
 16 before “2.0 percent”.

17 (b) REGULATION INVALIDATED.—The provisions of
 18 section 80.41(b) of part 80 of title 40 of the Code of Fed-
 19 eral Regulations establishing a per-gallon minimum oxy-
 20 gen content (percent, by weight) shall cease to have any
 21 force and effect on the date of the enactment of this Act.

22 **SEC. 6. ANTI-BACKSLIDING.**

23 (a) OZONE FORMING POTENTIAL.—Section
 24 211(k)(1) of the Clean Air Act is amended by adding the
 25 following at the end thereof: “No later than June 1, 2001,

1 the Administrator shall revise the regulations under this
2 paragraph as necessary to ensure that the ozone forming
3 potential, taking into account all ozone precursors (includ-
4 ing volatile organic compounds, oxides of nitrogen, and
5 carbon monoxide), of the aggregate emissions during the
6 high ozone season (as defined by the Administrator) from
7 baseline vehicles when using reformulated gasoline does
8 not exceed the ozone forming potential of the aggregate
9 emissions from such vehicles when using reformulated gaso-
10 line that complies with the regulations that were in effect
11 on January 1, 2000, and applicable to reformulated gaso-
12 line sold in calendar year 2000 and thereafter.”.

13 (b) AROMATIC HYDROCARBON CONTENT.—Section
14 211(k)(2) of the Clean Air Act is amended by adding the
15 following new subparagraph at the end thereof:

16 “(E) AROMATIC HYDROCARBON CON-
17 TENT.—The aromatic hydrocarbon content of
18 the gasoline shall be not greater than the aver-
19 age aromatic hydrocarbon content of reformu-
20 lated gasoline sold in covered areas for use in
21 such vehicles during the year 2000.”.

22 **SEC. 7. DEVELOPING OXYGENATE ALTERNATIVES TO MTBE.**

23 The Secretary of Energy and the Administrator of
24 the Environmental Protection Agency shall evaluate by
25 December 31, 2001 and report to the President and the

1 Congress on the potential for development of oxygenate
2 alternatives to methyl tertiary butyl ether (“MTBE”) not
3 otherwise identified in this Act, and shall evaluate what
4 steps, if any, would be appropriate to foster development
5 of such alternatives should they be found to be an accept-
6 able substitute for MTBE.

7 **SEC. 8. TRANSITION TO ETHANOL.**

8 It is the Sense of the Congress that the United States
9 should promote renewable ethanol to replace methyl ter-
10 tiary butyl ether (“MTBE”) and encourage oil refiners to
11 make the transition from MTBE-blended fuel to ethanol-
12 blended fuel as soon as possible.

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